



Appeal Decision

Site Visit made on 19 October 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal Ref: APP/V4305/W/21/3276693

35 Derby Road, Huyton L36 9UQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cashino Gaming Ltd against the decision of Knowsley Metropolitan Borough Council.
 - The application Ref 20/00743/COU, dated 9 December 2020, was refused by notice dated 12 March 2021.
 - The development proposed is described as 'full planning permission for change of use of the ground floor and first floor at 35 Derby Road from a vacant retail (A1) unit to an Adult Gaming Centre (AGC) (Sui Generis) (SG).'
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal.

Main Issues

3. The main issues are the effect of the proposal on the vitality and viability of Huyton Village Centre, with particular reference to character and appearance, and whether the proposal would cause harm to the health and well-being of the local population.

Reasons

Vitality and Viability

4. The appeal relates to a dual fronted property that is situated on a prominent corner location adjacent to Derby Road and Sherborne Square, within Huyton Village Centre. At the time of my midday site visit the appeal property, which was previously used as a retail unit, was vacant.
5. It is uncontested by the main parties that the village town centre comprises approximately 115 commercial premises, with four bookmakers, two pawnbrokers and an existing adult gaming centre located on Derby Road. On my site visit it was also apparent that a number of properties nearby had their shopfront windows obscured by a range of features including rolled down metal security shutters, advertisements and adhesive film sheeting. This group includes Nos 31-33 Derby Road, which is also a dual fronted unit, and the short

- row of properties that include the existing adult gaming centre, and the tanning and testing centres.
6. In seeking to diversify uses within existing centres Saved UDP¹ Policy S2 permits proposals for the change of use of existing buildings to provide town centre uses within existing town and district centres subject to a list of specific criteria. The most relevant in terms of this appeal are that i) the proposal would be compatible with the scale and role of the centre and would not have a detrimental impact on the retail function of the centre; and ii) the proposal would not result in a grouping of uses which would have a negative impact on the character of the centre.
 7. The Council argues that it has a strong track record in making positive interventions to its town centres. It refers to a number of local independent food and drink establishments that have opened on Derby Road since the adoption of SPD1² and the start of the Huyton Village Centre Regeneration Programme in 2018 as an indication of commercial interest in the town centre. SPD1, like SPD2³, has been subject to public consultation and these documents are material considerations of due weight in the context of this appeal. I have also had regard to the Council's regeneration aspirations within its 'Delivery Plan' for Huyton Village Centre.
 8. Nonetheless, I have not been made aware of any Council or other private interest in the appeal building. Despite the lack of marketing information before me, and the Council's reference to relatively low vacancy rates in comparison to regional and national averages, it was evident on my site visit that there are a number of vacant premises in the town centre. Indeed, the 'low demand from retailers for units within Huyton Village, with some vacant retail units' is identified as a key challenge and area for improvement in SPD1. These factors, to my mind, indicate a lack of demand for retail units at the moment in this area.
 9. Furthermore, stores that are operated by national retailers including Superdrug, and Boots are located around this part of the town centre, thereby representing a viable core of retail shops that would ensure that a flow of shoppers would be maintained. There would also be potential for linked shopping trips, increased employment, and a positive contribution to the town centre's evening economy. As such I am satisfied that the proposal would be compatible with the scale and role of the centre and would not have a detrimental impact on its retail function.
 10. Although the proposal is not for a betting shop or pay day loan shop, I am mindful that the Council accepts that it would not result in the quantum of these types of uses exceeding the 10% grouping threshold set out in SPD2. Nonetheless, in seeking to promote good quality street frontages Policy HV3 of SPD1 identifies Derby Road as Huyton village town centre's principal retail high street. It sets out that blank frontages which do not add life to public streets and important routes should be avoided, and highlights Sherborne Square as a key site, where buildings should create strong and active street edges.

¹ Knowsley Replacement Unitary Development Plan 2006

² Huyton Village Masterplan Supplementary Planning Document 2017-2028

³ Town Centre Uses Supplementary Planning Document 2016

11. The proposal does not include any external shopfront alterations, and no elevation plans have been submitted with the appeal. However, the nature of the proposed use is such that the existing shopfront windows, on both frontages, would be enclosed by advertisements and displays to obscure the gaming machines. The appellant has confirmed that a TV would be located within the window display, together with graphics demonstrating what gaming and bingo is available inside.
12. On the basis of the evidence before me it is therefore likely that all of the proposal's shopfront windows, which are located on a prominent corner location and key site, would have a blocked and enclosed appearance, with limited visual interest when compared to typical retail displays. As such it would not add life to important routes or provide suitably active street frontages. When combined with the number of other nearby inactive frontages of retail and non-retail premises it would result in a grouping of uses which would consequently have a negative effect on the vitality and character of the area.
13. The appellant argues that the premises could be converted to a non-traditional main town centre use under its permitted development rights, and that such uses may have similar shopfront displays as that proposed. Nonetheless, I am not aware that any applications for prior notification for alternative uses have been made to the Council and there is little substantive evidence before me to indicate that there is a significant probability that such uses would come forward should this appeal be dismissed. This limits the weight I can give the matter as a fall-back position.
14. The appellant's willingness to accept a planning condition to ensure that no vinyl will be placed onto the glazing and that any shopfront display would be set back one metre from the window is also noted. However, in the absence of any details of the proposed display I am unable to be certain that these measures would be sufficient to overcome the harm that I have identified.
15. I therefore find that the proposal would have a materially harmful effect on the vitality and viability of Huyton Village Centre, with particular reference to character and appearance. Conflict would therefore arise with Saved UDP Policy S2 and Core Strategy Policy CS6 which seek to ensure that, amongst other matters, proposed changes of use would not have a negative impact on the character of Knowsley's centres, and would enhance their vitality and viability. It would also not accord with advice in SPD1.

Health

16. Concerns have been expressed by the Council in respect of the effect of the proposed use on the health inequalities of Knowsley's residents, which Strategic Objective 9 and Policy CS2 of the Core Strategy seek to improve. In setting out the existing key issues and area priorities for the Borough, the Council has made me aware that Chapter 6 of the Core Strategy highlights the high levels of deprivation, including health inequalities in North Huyton.
17. I recognise the potential for gambling establishments to have negative impacts and influence people's everyday lives through problem gambling, including for those in the vulnerable groups that the Council has identified. This can be through factors such as debt and reduced income, which can impact on the whole household rather than just the gamblers themselves.

18. The Council has made me aware of the amount of gaming machines that the proposal would provide, the pattern in the geographic distribution of gaming machines and income deprivation, the profile of sessional losses in adult game centres and figures in respect of the amount of children in low income families in Knowsley. Whilst I also acknowledge the influence of poverty on health, I have not been presented with any data in respect of gambling addiction in the borough or to establish a clear link between the current gambling establishments in the town centre and North Huyton's current deprivation levels. As such there is little conclusive evidence before me to suggest that the introduction of an adult gaming centre in this location would exacerbate the issues of health inequalities and deprivation that have been presented to me.
19. I am therefore unable to conclude that the proposal would cause harm to the health and well-being of the local population. It would therefore not conflict with Core Strategy Policy CS2, which seeks, amongst other things, to reduce health inequalities between Knowsley and other parts of the UK, and to provide opportunities for positive lifestyle choices and health improvement for people of all ages.

Other Matters

20. In support of their cases both the Council and the appellant have drawn my attention to previous appeal decisions⁴ for adult gaming centres across the country. Whilst I have had regard to these in reaching my findings, they have different development plan policies to those that apply in this appeal. Moreover, each application and appeal must be determined on its own merits, and that is what I have done in this case.
21. I also note the appellant's disappointment with the Council in respect of the lack of dialogue during the planning application process. However, this has had no bearing on the outcome of this appeal as I have only had regard to the planning merits of the proposal that is before me.

Conclusion

22. Although I have found that there would be no adverse impact in respect of health and well-being this is significantly outweighed by the harm I have identified that the proposal would cause to the vitality and viability of Huyton Village Centre, with particular regard to its character and appearance. As such it would not constitute sustainable development for which there is a presumption in favour.
23. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be dismissed.

Mark Caine

INSPECTOR

⁴ APP/D2320/W/18/3195965, APP/C1055/W/17/3173476, APP/V5570/W/20/3257308, APP/R1845/W/19/3242723, APP/F4410/W/20/3250246.